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SENATE BILL 442

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE FOR A TAX CREDIT FOR GEOTHERMAL GROUND-COUPLED HEAT PUMPS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, 2010 and who purchases and installs after January 1, 2010 but before December 31, 2020 a geothermal ground-coupled heat pump in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer may apply for, and the

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1 department may allow, a tax credit of up to thirty percent of
2 the purchase and installation costs of the system. The credit
3 provided in this section may be referred to as the "geothermal
4 ground-coupled heat pump tax credit". The total geothermal
5 ground-coupled heat pump tax credit allowed to a taxpayer shall
6 not exceed nine thousand dollars (\$9,000). The department
7 shall allow a geothermal ground-coupled heat pump tax credit
8 only for geothermal ground-coupled heat pumps certified by the
9 energy, minerals and natural resources department.

10 B. A portion of the geothermal ground-coupled heat
11 pump tax credit that remains unused in a taxable year may be
12 carried forward for a maximum of ten consecutive taxable years
13 following the taxable year in which the credit originates until
14 the credit is fully expended.

15 C. Prior to July 1, 2010, the energy, minerals and
16 natural resources department shall adopt rules establishing
17 procedures to provide certification of geothermal
18 ground-coupled heat pumps for purposes of obtaining a
19 geothermal ground-coupled heat pump tax credit. The rules
20 shall address technical specifications and requirements
21 relating to safety, building code and standards compliance,
22 minimum system sizes, system applications and lists of eligible
23 components. The energy, minerals and natural resources
24 department may modify the specifications and requirements as
25 necessary to maintain a high level of system quality and

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1 performance.

2 D. The department may allow a maximum annual
3 aggregate of two million dollars (\$2,000,000) in geothermal
4 ground-coupled heat pump tax credits. Applications for the
5 credit shall be considered in the order received by the
6 department.

7 E. A taxpayer who otherwise qualifies and claims a
8 geothermal ground-coupled heat pump tax credit with respect to
9 property owned by a partnership or other business association
10 of which the taxpayer is a member may claim a credit only in
11 proportion to that taxpayer's interest in the partnership or
12 association. The total credit claimed in the aggregate by all
13 members of the partnership or association with respect to the
14 property shall not exceed the amount of the credit that could
15 have been claimed by a sole owner of the property.

16 F. A husband and wife who file separate returns for
17 a taxable year in which they could have filed a joint return
18 may each claim only one-half of the credit that would have been
19 allowed on a joint return.

20 G. As used in this section, "geothermal
21 ground-coupled heat pump" means a system that uses energy from
22 the ground, water or, ultimately, the sun for distribution of
23 heating, cooling or domestic hot water; that has either a
24 minimum coefficient of performance of three and four-tenths or
25 an efficiency ratio of sixteen or greater; and that is

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1 installed by an accredited installer certified by the
2 international ground source heat pump association."

3 Section 2. A new section of the Corporate Income and
4 Franchise Tax Act is enacted to read:

5 "[NEW MATERIAL] GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
6 CREDIT.--

7 A. A taxpayer that files a New Mexico corporate
8 income tax return for a taxable year beginning on or after
9 January 1, 2010 and that purchases and installs after January
10 1, 2010 but before December 31, 2020 a geothermal ground-
11 coupled heat pump in a property owned by the taxpayer may claim
12 against the taxpayer's corporate income tax liability, and the
13 department may allow, a tax credit of up to thirty percent of
14 the purchase and installation costs of the system. The credit
15 provided in this section may be referred to as the "geothermal
16 ground-coupled heat pump tax credit". The total geothermal
17 ground-coupled heat pump tax credit allowed to a taxpayer shall
18 not exceed nine thousand dollars (\$9,000). The department
19 shall allow a geothermal ground-coupled heat pump tax credit
20 only for geothermal ground-coupled heat pumps certified by the
21 energy, minerals and natural resources department.

22 B. A portion of the geothermal ground-coupled heat
23 pump tax credit that remains unused in a taxable year may be
24 carried forward for a maximum of ten consecutive taxable years
25 following the taxable year in which the credit originates until

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1 the credit is fully expended.

2 C. Prior to July 1, 2010, the energy, minerals and
3 natural resources department shall adopt rules establishing
4 procedures to provide certification of geothermal
5 ground-coupled heat pumps for purposes of obtaining a
6 geothermal ground-coupled heat pump tax credit. The rules
7 shall address technical specifications and requirements
8 relating to safety, building code and standards compliance,
9 minimum system sizes, system applications and lists of eligible
10 components. The energy, minerals and natural resources
11 department may modify the specifications and requirements as
12 necessary to maintain a high level of system quality and
13 performance.

14 D. The department may allow a maximum annual
15 aggregate of two million dollars (\$2,000,000) in geothermal
16 ground-coupled heat pump tax credits. Applications for the
17 credit shall be considered in the order received by the
18 department.

19 E. As used in this section, "geothermal ground-
20 coupled heat pump" means a reversible refrigerator device that
21 provides space heating, space cooling, domestic hot water,
22 processed hot water, processed chilled water or any other
23 application where hot air, cool air, hot water or chilled water
24 is required and that utilizes ground water or water circulating
25 through pipes buried in the ground as a condenser in the

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cooling mode and an evaporator in the heating mode."

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